

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Speier, et al. Analyst: Rachel Coco Bill Number: SB 92  
Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: January 28, 2003  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** California Missions Foundation Fund

### SUMMARY

This bill would establish the California Missions Foundation Fund for taxpayer contribution designation on the personal income tax returns.

### PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to provide funding for the restoration efforts of the California Missions Foundation.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2004, and would apply to tax returns filed on or after that date.

### POSITION

Pending.

#### Summary of Suggested Amendments

An amendment is provided to address the department's technical concern.

### ANALYSIS

#### FEDERAL/STATE LAW

Current federal tax law provides a true checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 11 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Board Position:

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_____ N	_____ OUA	_____ PENDING

Department Director  
Gerald H. Goldberg

Date  
03/06/03

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. Attachment I shows the specific sunset dates for each voluntary contribution fund and indicates that all funds, except the California Seniors Special Fund must meet a minimum contribution test (as indexed, if required) to remain on the return. Attachment II is a chart indicating the number and dollar amount of contributions to the funds for multiple fiscal years.

### THIS BILL

This bill would establish the California Missions Foundation Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require the FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund is removed.

For the second taxable year the fund is on the return, this bill would require the fund to meet the \$250,000 minimum contribution test. If the FTB estimates by September 1 of any calendar year after the first taxable year the fund appears on tax returns that contributions made under this bill will be less than \$250,000 (as indexed), the law authorizing designations for this fund on a return and establishing the fund would be repealed.

This bill would allow the voluntary contribution designation to remain on the tax return for five years unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Missions Foundation Fund. Upon appropriation by the Legislature, the moneys from this fund must be allocated to: 1) the Franchise Tax Board and the Controller for reimbursement of costs incurred in administering this fund, and 2) the California Missions Foundation for the restoration and repair of Spanish colonial and mission era missions and the preservation of artworks and artifacts of these missions.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

### TECHNICAL CONSIDERATIONS

Amendment 1 is provided to modify the word "reserve" to "preserve."

As currently drafted, the bill requires money contributed to the Fund to be transferred from the Personal Income Tax Relief Fund by the State Controller for deposit into the Fund and eventual release to the fund recipient. Pursuant to the bill, the State Controller may release the money to the fund recipient only after appropriation by the Legislature.

For fund recipients where a state agency receives the appropriation and then allocates the money collected from the fund to the fund recipient, annual appropriation is accomplished through the state's annual budget bill. For fund recipients where a state agency does not receive and allocate the money collected, the fund recipient must seek appropriation of the money through annual legislation.

The author may want to consider affiliating the fund with a state agency for annual appropriation through a line-item in that state agency's budget. Department staff is available to assist with amendments to resolve this concern.

NOTE: Until recently, the voluntary contribution funds generally were "continuously appropriated." However, the appropriations committees eliminated "continuous appropriations" to control money spent by and on behalf of the State.

## **PROGRAM BACKGROUND**

Eleven voluntary contribution funds appeared on the 2002 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3.9 in 2001/2002. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

## **OTHER STATES' INFORMATION**

*Illinois, Massachusetts, Michigan, Minnesota, and New York* allow for taxpayer contribution designations on the personal income tax returns.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

### Revenue Estimate

The net revenue impact of this bill would be negligible (gain or loss) since the addition of the California Missions Foundation Fund to the tax return requires the removal of an existing voluntary contribution designation.

Any possible changes in employment, personal income, or gross state product that might result from this measure are not taken into account.

### Revenue Discussion

According to departmental data, the total amount of existing voluntary contributions to all funds was nearly \$4 million for fiscal year 2001/02 with an average of \$280,000 per individual designated fund.

Assuming contributions equal or exceed the minimum \$250,000 required to remain on the tax return and all contributors itemize deductions, the annual revenue loss would be on the order of \$15,000 by applying an average marginal tax rate of 6%. This revenue loss would occur the year following this fund designation being placed on the tax return and would be partially or wholly offset by revenue savings from the elimination of an existing check-off.

### **POLICY CONCERNS**

The placement of voluntary contributions on the tax return limits the amount of space available for tax-related items. The inclusion of non-tax related information could ultimately cause the tax form to become three pages, which is unprecedented among other states and the IRS. A three-page return also would cause the department to incur significant costs for printing, handling, and storage.

### **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENT TO SB 92  
As Introduced January 28, 2003

AMENDMENT 1

On page 3, line 33, strikeout "reserve" and insert:

preserve